

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

Resolution Number 23-067

Record Number PLN-2023-18059

Assessor Parcel Numbers 316-134-005, 316-135-005, 316-135-004

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approving the Wright Lot Line Adjustment, Zone Boundary Adjustment, and Joint Timber Management Plan.

WHEREAS, the owners, submitted an application and evidence in support of approving the Lot Line Adjustment between two parcels and a Joint Timber Management Plan, and a Zone Boundary Adjustment to adjust the zone boundary between the Agriculture Exclusive zone (AE) and the Timberland Production Zone (TPZ), essentially absorbing the AE zoned area into the TPZ zone; and

WHEREAS, the County Planning Division, the lead agency, found the project exempt from environmental review pursuant to Section 15305(a) and Section 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on **July 20, 2023**; reviewed, considered, and discussed the application for a Lot Line Adjustment, Zone Boundary Adjustment, and Joint Timber Management Plan; and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

1. FINDING:

Project Description: A Lot Line Adjustment (LLA) between two parcels resulting in two parcels of approximately 284 acres (Parcel A) and 40 acres (Parcel B). Also, part of the project is a Zone Boundary Adjustment (ZBA) that would adjust the zone boundary between the Agriculture Exclusive (AE) and Timberland Production Zone (TPZ) boundary on Parcel B. This would involve rezoning approximately one isolated acre of AE to TPZ, essentially absorbing the AE zoned acre into the TPZ zone in order to meet the 40-acre minimum parcel size requirement. A Joint Timber Management Plan (JTMP) is required due to the resultant Parcel B containing less than 160 acres of TPZ. The smaller parcel (Parcel B) is developed with a single-family residence and associated residential development, and the larger parcel (Parcel A) is managed for timber production. The purpose of the LLA is to facilitate the conveyance of the majority of the timberland to the adjacent landowner. No development is proposed.

EVIDENCE: a) Project File: PLN-2023-18059

2. **FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The project is exempt from environmental review per Section 15305(a) and Section 15061(b)(3) of the California Environmental Quality Act (CEQA).

EVIDENCE: a) As lead agency, the Planning and Building Department found the project to be categorically exempt per Class 5, Section 15305(a) and Section 15061(b)(3) of the CEQA Guidelines. The LLA and ZBA do not result in a change in land use or overall density and the LLA is intended to facilitate the conveyance of the majority of the timberland to the adjacent landowner, while the ZBA will facilitate Parcel B meeting the 40-acre minimum parcel size requirement for TPZ. Therefore, the project is exempt pursuant to Sections 15061(b)(3) and 15305(a) of the CEQA Guidelines. Section 15061(b)(3) applies to projects when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and Section 15305(a) applies to minor lot line adjustments not resulting in the creation of any new parcel.

LOT LINE ADJUSTMENT

3. **FINDING:** The Lot Line Adjustment application is complete

EVIDENCE: a) The applicant has submitted a completed and signed application form, copies of present owners' deeds, a preliminary title report, copies of the creation documents for the parcels and a Lot Line Adjustment Map.

4. **FINDING:** The project is consistent with the Subdivision Map Act.

EVIDENCE: a) A portion of APN 316-134-005 and APN 316-135-005 was created by Land Patent, Certificate No. 1248 Issued to John Ryan, May 5, 1897. APN 316-135-004 is a separate legal parcel described as Parcel Two per Certificate of Subdivision Compliance, Instrument No. 2021-010513.

5. **FINDING:** The project conforms to zoning and building ordinances.

EVIDENCE: a) The parcels are zoned AE and TPZ and will be exclusively zoned TPZ as a result of the ZBA. TPZ allows general agriculture and single family residential as principally permitted uses. The project will adjust the parcel lines between two parcels with Parcel A acquiring approximately 120 acres from Parcel B. Parcel B is developed with a single-family residence and associated residential development, and Parcel A is managed for timber production.

6. FINDING: The project is consistent with the General Plan.

EVIDENCE:

- a) The Timberland (T) designation applies to land that is primarily suitable for growing, harvesting and production of timber. Parcel A will continue to be utilized for rural residential uses and timber production and the Parcel B will continue to be utilized for timber production. The project is therefore consistent with the goals of the Land Use Element of the General Plan.
- b) No development is proposed with the LLA, and future development and uses on the project parcels will have minimal impacts on lands planned for preservation and conservation of Open Space. With the conveyance of the majority of the timberland to the adjacent landowner, the project is consistent with the Open Space Plan and the Open Space Action Program.
- c) No impacts to biological resources will result from this LLA. According to the County GIS two unnamed tributaries to Canon Creek transect the parcels. Existing development maintains required setbacks to these watercourses. Any future development will be subject to the policies of the General Plan as they apply to protection of Streamside Management Areas (SMAs). According to the County GIS there is mapped habitat for Fisher and California globe mallow on portions of the parcels and northern spotted owl activity center approximately 800 feet south of APN 316-135-005; however, no development is proposed as part of the project. The project was referred to the California Department of Fish and Wildlife and they responded requesting that the applicant secure a Lake or Streambed Alteration Agreement (LSAA) and a water right for the spring diversion that supports the residence on Parcel B. In a follow up conversation between staff and CDFW on June 15, 2023, CDFW stated that they would like there to instead be an informational note added to the conditions of approval advising the applicant that diversion of surface waters without an LSAA is a violation of Fish and Game Code and that any future development of the property may require securing an LSAA and a water right from the State Division of Water Rights. This has been added to the informational notes within the conditions of project approval.

- d) No impacts to cultural resources will result from this LLA. The County does not have record of any culturally sensitive sites located in or around the project location. The project was referred to the Northwest Information Center (NWIC), the Bear River Band of the Rohnerville Rancheria, Blue Lake Rancheria, and the Wiyot Tribe. The referral comments from NWIC indicated that their office had no record of any previous cultural resource studies and recommended consultation with the local tribes. Blue Lake Rancheria responded stating that they had no concerns with the project moving forward. Additionally, no development is proposed as part of the project.
- e) The site is in an area of moderate to high slope instability and outside of any Alquist-Priolo Fault Hazard Area or areas mapped as historic landslides. The site is outside of any flood zone. The subject property is located within the State Fire Responsibility Area where the State of California has the primary responsibility for the prevention and suppression of wildland fires. The parcel is outside of a mapped fire district but within the response area of the Blue Lake Volunteer Fire Department who provides structural fire protection as well as responding to medical emergencies.

ZONE BOUNDARY ADJUSTMENT

7. FINDING: The proposed project is in the public interest.

EVIDENCE: a) The project involves a ZBA between lands zoned AE and TPZ. The ZBA would adjust the zone boundary within the resultant 40-acre parcel such that the entire parcel is zoned TPZ. This action would rezone approximately one acre from AE to TPZ and facilitate the parcel meeting the 40-acre minimum parcel size requirement for TPZ. The Planning Division believes that the ZBA is in the public interest in that it accurately zones property and is minor in nature.

8. FINDING: The proposed ZBA is consistent with the General Plan.

EVIDENCE: a) The land involved in the ZBA is planned T by the Humboldt County General Plan. According to the Zoning Consistency Matrix of the Humboldt County General Plan, the T plan designation is compatible with TPZ zoning.

JOINT TIMBER MANAGEMENT PLAN

9. FINDING: The JTMP provides for the management and harvesting of timber by the original and any subsequent owners and shall be recorded as a deed restriction.

- EVIDENCE:**
- a) The County's Forestry Review Committee has reviewed the JTMP for its effectiveness for maintaining the ability of the new Parcel B to be effectively managed and harvested for timber and at its meeting of February 8, 2023, they recommended that the Board of Supervisors approve the JTMP.
 - b) The JTMP declaration has been executed by the property owner and will be recorded simultaneously with the Notices of Lot Line Adjustment.

ADDITIONAL REQUIRED FINDINGS

- 10. FINDING:** The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity.

- EVIDENCE:**
- a) All reviewing referral agencies that responded to the County have approved or conditionally approved the proposed project. The application is complete. Parcels to be adjusted are found to be in compliance with the Subdivision Map Act. The proposal neither causes non-conformance nor increases the severity of preexisting nonconformities with zoning and building ordinances.

- 11. FINDING:** The proposed project does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law unless the following written findings are made supported by substantial evidence: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.

- EVIDENCE**
- a) The subject parcels were not utilized by the Department of Housing and Community Development in determining compliance with housing element law. The project has no impact on overall density.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby.

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Lot Line Adjustment, Zone Boundary Adjustment, and Joint Timber Management Plan for Chuck Wright (PLN-2023-18059) subject to the conditions of approval attached hereto as Attachment 1A.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors of the County of Humboldt:

1. Hold a public hearing in the manner prescribed by law.
2. Adopt the necessary findings prepared by Planning Staff.
3. Approve the Lot Line Adjustment, Zone Boundary Adjustment, and Joint Timber Management Plan.
4. Adopt Ordinance No. _____ amending Section 311-7 of the Humboldt County Code by reclassifying property in the Korbel area [PLN-2023-18059, Wright] so that the one isolated acre of AE on APN 316-135-004 is adjusted to TPZ.
5. Direct the Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research.

Adopted after review and consideration of all the evidence on **July 20, 2023**.

The motion was made by COMMISSIONER Brian Mitchell and second by COMMISSIONER Sarah West and the following ROLL CALL vote:

AYES: COMMISSIONERS: Iver Skavdal, Noah Levy, Lonyx Landry, Brian Mitchell, Sarah West

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS: Thomas Mulder, Peggy O'Neill

ABSTAIN: COMMISSIONERS:

DECISION: Motion carries 5/0

I, John H. Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.



John H. Ford, Director
Planning and Building Department

CONDITIONS OF APPROVAL (Lot Line Adjustment)

APPROVAL OF THE LOT LINE ADJUSTMENT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE COMPLETION OF THE PROJECT:

1. Per the Department of Public Works Memo dated January 12, 2023, the comers of the new property lines shall be monumented, pursuant to Section 325.5-9 of the Humboldt County Code. A Record of Survey shall be filed unless this requirement is waived by the County Surveyor. The requirement for a Record of Survey may be waived if, in the opinion of the County Surveyor, any one of the following findings can be made:
 - a. The new boundary line(s) are already adequately monumented of record.
 - b. The new boundary line(s) can be accurately described from Government Subdivision Sections or aliquot parts thereof.
 - c. The new boundary line(s) can be accurately described and located from existing monuments of record.
 - d. The new boundary is based upon physical features (i.e. roads, creeks, etc.) which themselves monument the line.
2. A Notice of Lot Line Adjustment shall be recorded for each resultant parcel. The following information must be submitted to the Planning Department for review prior to recordation:
 - a. A copy of the existing deeds and the deeds to be recorded for the adjusted parcels. If the property is not changing ownership, only the existing deeds are required.
 - b. A Preliminary Title Report regarding ownership of parcels involved. The title report documents must be current at time of submittal. Depending on the date of the report preparation, updating may be necessary.
 - c. A completed "Notice of Lot Line Adjustment and Certificate of Compliance" form for each parcel.
 - d. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$445.00 per notice plus \$300.00 for each additional legal description plus applicable recordation fees).
3. When the parcels being adjusted are not held in common ownership, copies of the executed deeds (signed but not recorded) prepared by a qualified individual must be

submitted for review by the Planning and Public Works Departments.

4. A map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$106.00 per parcel) as required by the County Assessor shall be paid to the Humboldt County Planning Department, 3015 "H" Street, Eureka. The check shall be made payable to the "County of Humboldt". The fee is required to cover the Assessor's cost in updating the parcel boundaries.
5. The applicant shall comply with the provisions of Section 321-14 of the Humboldt County Code concerning reapportionment or payment of special assessments.
6. **Applicant shall provide documentation from the County of Humboldt Tax Collector that all property taxes for the parcels involved in the Lot Line Adjustment have been paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the Notice of Lot Line Adjustment to satisfy this condition.** *Note: The purpose of this condition is to avoid possible title consequences in the event of a tax default and sale affecting the owner's real property interest. If property is acquired as a result of a Lot Line Adjustment and said property has delinquent taxes, the property cannot be combined for tax purposes. This means, that the owner will receive two or more tax bills, and penalties and interest will continue to accrue against the land which has delinquent taxes. If five or more years have elapsed since the taxes on the subject property were declared in default, such property will be sold by the County Tax Collector for non-payment of delinquent taxes unless the amount required to redeem the property is paid before sale. Property combined by lot line adjustment but "divided" by tax sale will require separate demonstration of subdivision compliance of all resultant parcels prior to the County's issuance of a building permit or other grant of authority to develop the subject properties.*
7. The property owner(s) shall execute and file with the Planning Division the statement titled "Notice and Acknowledgment Regarding Agricultural Activities in Humboldt County" as required by Section 314-43.2 of the Humboldt County Code. Contact the Planning Division for a copy of the required document.
8. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the Planning Commission decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

9. Applicant shall obtain Board of Supervisors approval for the associated Zone Boundary Adjustment.
10. Applicant shall obtain Board of Supervisors approval for the associated Joint Timber Management Plan.

Informational Notes:

1. A Record of Survey as outlined in the Business and Professions Code of the State of California may be required pursuant to Section 8762 of the Land Surveyors Act which states in part, a Record of Survey shall be filed upon "...the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey...".
2. Approval of this Lot Line Adjustment does not guarantee that developable parcels will result. Final approval for any development will depend on demonstration of conformance with site suitability requirements in effect at the time development is proposed. Issuance of a building permit will require demonstration of all applicable development standards at the time a permit is requested.
3. This permit, including the Lot Line Adjustment shall expire and become null and void at the expiration of three (3) years after all appeal periods have lapsed (see "Effective Date"). This approval may be extended in accordance with the Humboldt County Code.
4. The Humboldt County zoning map shall be revised to conform to the realigned zone boundary per the zone boundary determination of the Humboldt County Planning Commission (H.C.C. §311-8.2).
5. The applicant is advised that diversion of surface waters without a Lake or Streambed Alteration Agreement (LSAA) is a violation of Fish and Game Code, and that any future development of Parcel B may require securing an LSAA from CDFW and a water right from the State Water Resources Control Board Division of Water Rights for the ongoing use and maintenance of the spring that supplies water to the residence and accessory structures and uses.
5. **The following is applicable to future ground disturbing activity on any of the parcels resulting from this Lot Line Adjustment:** If cultural resources are encountered during construction activities the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) will be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

The Native American Heritage Commission (NAHC) can provide information regarding the appropriate Tribal point(s) of contact for a specific area; the NAHC can be reached at 916-653-4082. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the NAHC will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to PRC 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99

The applicant is ultimately responsible for ensuring compliance with this condition.

CONDITIONS OF APPROVAL (Zone Boundary Adjustment)

APPROVAL OF THE ZONE BOUNDARY ADJUSTMENT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE ZONE RECLASSIFICATION CAN BE SCHEDULED FOR ACTION BY THE BOARD OF SUPERVISORS:

Conditions of Approval:

1. The applicant shall submit a legal description of the area to be rezoned from AE into TPZ for review and approval by the County Land Surveyor. The applicable review fee (currently \$300.00) must accompany the legal description. The legal description must be approved by the County Land Surveyor prior to the Zone Boundary Adjustment being scheduled for a decision by the Board of Supervisors.